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July 20, 2023

**VIA ECF**

United States District Court  
500 Pearl Street  
New York, NY 10007  
Hon. Ona T. Wang, United States Magistrate Judge

**MEMO ENDORSED.**

Re: Rodriguez v. The City of New York, et. al.  
Dkt No. 23-cv-5531 (LAK) (OTW)

Your Honor:

This office represents Plaintiff Jose Rodriguez in the above-referenced action. Please consider this joint letter-motion to adjourn the Initial Conference currently scheduled for July 26, 2023 (Dkt. No. 5). At the outset, the parties apologize to Your Honor that this submission is untimely. Pursuant to the Court's directives, the parties were to submit a letter on June 19, 2023. The parties had no intention of disrespecting this Honorable Court which was due to an oversight on all parties' part and the recent re-assignment of this matter within the Law Department. All parties regret this mistake, and it will not happen again.

During the DA Defendants' routine check of the Docket, the error was realized and as result, in less than 24 hours, all parties have made this a priority to discuss and are submitting this joint letter. Notably, although a letter was not timely filed, the parties have already initiated the process of the conditions precedent to the filing of a 12(b) or 12(c) Motion. DA Defendants have notified Plaintiff that based on the initial Summons and Complaint, it is their intention to file a motion to dismiss. DA Defendants contacted Plaintiff on June 27, 2023 to discuss their concerns and Your Undersigned advised the DA Defendants that time was needed to discuss with Plaintiff and review the file/appellate documents currently in Plaintiff's possession to determine the best course of action.

Plaintiff is currently considering whether he would like to amend the Complaint prior to motion practice. In the event Plaintiff chooses to amend his Complaint, DA and City Defendants of course, will need time to evaluate whether the Amended Complaint has cured any or all of the alleged deficiencies whereby their anticipated motion could be considerably curtailed or not filed at all.

As such, all parties believe that it would be in the interest of the judicial economy to adjourn the Initial Case Management Conference and stay all deadlines until after the issues surrounding the current pleadings have been resolved either by the filing of the Amended Complaint or alternatively, by the Court's decision on the Motion to Dismiss.

Additionally, it was not until July 20, 2023 that Assistant Corporation Counsel Gregory Musso was assigned the instant matter to represent the City Defendants. As such, ACC Musso is in the process of reviewing the Complaint but joins in the parties' request and the proposed course of action.

Therefore, all parties are respectfully requesting that the July 26, 2023 Initial Conference (Dkt. No. 5) be adjourned until a date after the issues regarding the contemplated motion practice have been resolved. This is the parties' first request for an adjournment or an extension and all parties join in this request. Additionally, the parties will be prepared to submit a status letter on October 13, 2023 detailing if the parties are prepared to appear for an initial conference or alternatively, to submit a briefing schedule to this Honorable Court. It should be noted that this proposed date for a status letter takes into account counsel's time out of the office in July and August as well as the Jewish Holidays.

The Court's consideration of this request is deeply appreciated.

Respectfully submitted,



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Ellie Silverman  
*Special Counsel to:*  
Shulman & Hill, PLLC

Application **DENIED**. The parties are directed to submit their report of Rule 26(f) Meeting and Proposed Case Management Plan forthwith.

**SO ORDERED.**



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Ona T. Wang                      7/24/23  
U.S.M.J.